

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

CAROLYN QUEEN and JERRY QUEEN
husband and wife,

Plaintiffs,

v.

Civil Action No. 2:16-00216

**AMERICAN MODERN HOME INSURANCE
COMPANY and SHAUN BOSE**

Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§1332, 1441(a) and 1446, the Defendants, American Modern Home Insurance Company ["AMHIC"] and Shaun Bose ["Bose"], by counsel, hereby remove this civil action from the Circuit Court of Logan County, West Virginia to the United State District Court for the Southern District of West Virginia, Charleston Division. In support of this removal, AMHIC and Bose state:

1. Plaintiffs filed this action in the Circuit Court of Logan County, West Virginia on December 8, 2015 against AMHIC and Bose. Service of the Summons and Complaint was made upon AMHIC on December 10, 2015 through the West Virginia Secretary of State. As of the filing of this Notice of Removal, service has not been effected upon Bose. Bose preserves any and all objections to insufficiency of service of process.

2. This Court has original jurisdiction over this civil action under 28 U.S.C. §1332(a) and this action is removable to this Court pursuant to the provisions of 28 U.S.C. §1441(a) inasmuch as there is complete diversity of citizenship and the matter in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs.

3. Specifically, plaintiffs are residents and citizens of Logan County, West Virginia. See Complaint, ¶ 1. AMHIC is a corporation organized and existing under the laws of the State of Ohio with its principal place of business in the State of Ohio. Bose is an individual and a citizen and resident of the State of Ohio.

4. In their Complaint, plaintiffs allege multiple causes of action arising out of the adjustment and handling of plaintiffs' claim for property damages to their home and contents under a Manufactured Homeowners Policy issued by AMHIC. Plaintiffs assert that AMHIC failed to pay all claims under the policy and wrongfully cancelled the policy of insurance. Plaintiffs allege Negligence/Breach of Duty (Count I); First Party Bad Faith (Common Law) (Count II); Violations of the West Virginia Unfair Trade Practices Act (Count III); and Declaratory Judgment (Count IV). Plaintiffs request compensatory damages, attorney fees and costs, damages for annoyance and inconvenience, emotional distress, net economic losses and all other losses sustained as a result of the actions of the defendant. Plaintiffs also request punitive damages.

5. Although AMHIC and Bose expressly deny the allegations in plaintiffs' Complaint, based upon these allegations and the relief requested, the amount in controversy in this matter exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs. Accordingly, removal of this action is proper pursuant to 28 U.S.C. §1441(a).

6. The removal of this action is timely under 28 U.S.C. §1446(b) as AMHIC was served with a Summons and Complaint, via the West Virginia Secretary of State, on December 10, 2015. Bose has not been served with the Summons and Complaint but nonetheless joins in the removal.

7. The removal of this civil action is proper under 28 U.S.C. §1441(a) as this Court is the United States District Court for the district and division corresponding to the location of the state court filing. See L.R. Civ. P. 77.2.

8. A certified copy of the Docket Sheet and copies of the Summons and Complaint are attached as Exhibit A and constitute the only process/pleadings or orders that have been filed in the action in the Circuit Court of Logan County.

9. A true and correct copy of this Notice of Removal, with accompanying exhibits, is being filed with the Circuit Court of Logan County, West Virginia and served on opposing counsel in accordance with the provisions of 28 U.S.C. §1446(d).

Wherefore, this civil action is hereby removed to the United States District Court for the Southern District of West Virginia pursuant to the statutes of the United States of America. Please take notice that no further proceedings may be had in the Circuit Court of Logan County, West Virginia, unless or until this action is remanded.

Dated: January 11, 2016

**AMERICAN MODERN HOME INSURANCE
COMPANY and SHAUN BOSE**

By Counsel,

/s/Jeffrey M. Wakefield
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CERTIFICATE OF SERVICE

I, Jeffrey M. Wakefield, counsel for American Modern Home Insurance Company and Shaun Bose do hereby certify that the "**Notice of Removal**" was served upon the following counsel of record via U.S. mail, first class, postage prepaid, this 11th day of January, 2016:

Vickie "Vance" Kolota
Logan County Circuit Clerk
Logan County Courthouse
300 Stratton Street
Logan, WV 25601

Scott H. Kaminski, Esquire
Balgo & Kaminski, L.C.
P.O. Box 3548
Charleston, WV 25335-3548

/s/Jeffrey M. Wakefield

Jeffrey M. Wakefield (WV Bar #3894)